

**IN THE UNITED STATES DISTRICT COURT  
OF THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**PPU'S PACKAGING & LOGISTICS, §  
INC. and JOE PRINCE §  
§  
V. §  
§  
OCEAN SPRAY CRANBERRIES, INC., §  
ET AL. §**

**No. 5:07CV33**

**MEMORANDUM ORDER**

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration.

On August 1, 2007, the Court ordered Plaintiff<sup>1</sup> to serve the Defendants that remained in the case within ninety days of entry of the Order. The Court further advised Plaintiff that failure to do so within the time prescribed may result in a recommendation that his suit be dismissed for failure to prosecute. Plaintiffs had an additional ninety days in which to perfect service and failed to do so within the ninety-day period. A review of the docket reveals Plaintiffs have still failed to file return of service. Additionally, no objections were filed to the Report and Recommendation.

The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

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<sup>1</sup> The Report and Recommendation referred to one plaintiff, being Joe Prince, who signed the complaint "Joe Prince," and not as an agent of PPU Packaging & Logistics, Inc. *See* Orig. Compl. at ¶ 20. The Court is of the opinion both Plaintiffs' above-entitled cause of action against the remaining Defendants should be dismissed without prejudice for failure to prosecute.

**ORDERED** that Plaintiffs' above-entitled and numbered cause of action is **DISMISSED**  
**WITHOUT PREJUDICE** for failure to prosecute.

**SIGNED this 5th day of December, 2007.**

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE